

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs November 16, 2001

**JIMMY E. CAMPBELL v. TENNESSEE DEPARTMENT OF
CORRECTION**

**Appeal from the Chancery Court for Davidson County
No. 00-3463-III Ellen Hobbs Lyle, Chancellor**

No. M2001-00507-COA-R3-CV - Filed May 16, 2002

OPINION ON PETITIONS FOR REHEARING

WILLIAM C. KOCH, JR., J. delivered the opinion of the court in which WILLIAM B. CAIN and PATRICIA J. COTTRELL, JJ., joined.

Both Jimmy E. Campbell and the Tennessee Department of Correction have filed timely Tenn. R. App. P. 39 petitions requesting this court to reconsider its April 19, 2002 opinion. Having given these petitions our careful consideration, we have determined that Mr. Campbell's petition should be granted in part and that the Department's petition should be denied.

In our April 19, 2002 opinion, we affirmed the dismissal of Mr. Campbell's petition for declaratory judgment under Tenn. Code Ann. § 4-5-225 (1998) because it failed to state a claim upon which relief can be granted by failing to allege that Mr. Campbell had exhausted his Tenn. Code Ann. § 4-5-224 (1998) remedies. We also noted that, independent of this fatal procedural shortcoming, Mr. Campbell's sentence reduction credit claim for relief was premised on a fundamental legal error. Since Mr. Campbell's criminal offenses occurred on July 31, 1996, his right to earn and accrue sentence reduction credits was controlled by the post-December 11, 1985 version of Tenn. Code Ann. § 41-21-236 (1997).

Class X prisoners, under the original version of the Class X Felonies Act, were not entitled to sentence reduction credits of any sort. We noted in our April 19, 2002 opinion that the Tennessee General Assembly eased this restriction in 1985 when it enacted the Tennessee Comprehensive Correction Improvement Act of 1985. Mr. Campbell points out in his petition for rehearing that the Tennessee General Assembly first eased the restriction two years earlier in 1983.¹ While Mr. Campbell is historically correct, the General Assembly's action in 1983 is of absolutely no relevance

¹ Act of May 9, 1983, ch. 400, § 3, 1983 Tenn. Pub. Acts 710, 710, codified at Tenn. Code Ann. § 41-21-230 (Supp. 1983).

to the merits of his claim. The 1983 legislation regarding sentence reduction credits was supplanted by the 1985 legislation for all persons who committed their crimes on or after December 11, 1985. Because Mr. Campbell kidnaped and murdered his victim in July 1996, only the post-December 11, 1985 version of Tenn. Code Ann. § 41-21-236 (1997) controlled his sentence reduction credits.

Accordingly, we grant Mr. Campbell's petition to the extent that we have addressed the application of the 1983 sentence reduction credit legislation to his accrual of sentence reduction credits. However, in light of the inapplicability of the 1983 legislation to Mr. Campbell, we affirm our conclusion that he has failed in all respects to state a claim upon which relief can be granted. We tax the costs of the petitions for rehearing in equal proportions to Mr. Campbell and the State of Tennessee.

WILLIAM C. KOCH, JR., JUDGE